

REMARKS

Responsive to a first Office action, Applicant submitted amendments to claims 1, 8 and 15 in a Reply of June 28, 2007, to overcome rejections under 35 USC. 101 and 102(b) as being unpatentable over US patent 6,151,643 (Cheng). A Preliminary amendment was then submitted merely to cancel the method claims, i.e., claims 1-7 and to correct inadvertent omission of “instructions for” in claim 15. A final rejection was then issued in an Office action of August 20, 2007. In the final Office action, the rejection of the first Office action is maintained of claims 1-21 under 35 USC. 102(b) based on the same reference.

In reviewing the claims, Applicant has noticed that claims 8 and 15 do not have sufficient antecedent basis for their first uses of the term “post-load images.” The amendments submitted herein are merely to correct this error.

That is, claim 1, as amended in Reply A, provided antecedent basis for the term “post-load,” but claims 8 and 15 did not. For example, claim 8, lines 11-13, as amended in Reply A, stated “. . . wherein the first computer system has a pre-built array of *software* images stored thereon for combinations of hardware and the software that the user may select, *the respective post-load images* being substantially identical to . . .” (emphasis added). This is amended herein to state “. . . wherein the first computer system has a pre-built array of *post-load* images stored thereon for combinations of hardware and the software that the user may select, the respective post-load images being substantially identical to . . .” (emphasis added).

In addition, Applicant hereby requests that the rejection be reconsidered for the following reasons.

First, the final Office action asserts that “a post-load image, as described by the applicant is still an image, just like any software product.” Applicant respectfully requests reconsideration. Claim 8, for example, specifically states “the first computer system has a pre-built array of [post-load] images stored thereon for combinations of hardware and the software that the user may select, the respective post-load images *being substantially identical to respective images resulting on a target computer system hard drive from an installation process of corresponding pre-load images, so that the respective post-load images include software application*

configuration information, files from the corresponding pre-load images, and links to drivers for hardware of the target system" (emphasis added). This clearly describes something different than "just . . . any software product." Applicant submits that the assertion that the claimed image is "just like any software product" is unfounded and not supported by any teaching in the prior art. Cheng does not teach or suggest what is claimed, nor does nor Cheng in combination with the other cited references.

In this line of reasoning of item 6, page 10, the Office action further asserts that "Based on the type of software product . . . *any combination of all the necessary software may as well be packaged together*" (emphasis added). Applicant submits that this is a very broad and conclusory statement that is not dispositive of the issue. What is "necessary" from one instance to the next? What basis is there for the assertion that "any combination may as well be packaged together"? Is it not the purpose of the examination of claimed combinations in patent applications to determine what has *actually* been previously taught, particularly for rejections under 35 USC. 102? Cheng does not teach or suggest what is claimed, nor does nor Cheng in combination with the other cited references.

Second, the final Office action in item 7, page 10, also rejects Applicant's assertion that "Cheng does not meet the limitations, sending the user a loading utility with the selected image, wherein such a loading utility enables transferring the post-load image to the target computer system without relying on the target computer system having an operating system shell or boot diskette." The final Office action bases this rejection upon teaching by Cheng about a need to install software products on a stand-alone computer, and the use of computer readable media, such as a CD-ROM, diskette, 8 mm tape, citing Cheng, col 13 lines 40-45.

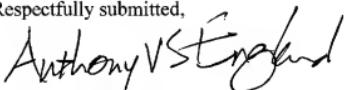
Applicant respectfully requests reconsideration. A need to install software products on a stand-alone computer, and the use of computer readable media do not anticipate "sending the user a loading utility with the selected image, wherein such a loading utility enables transferring the post-load image to the target computer system *without relying on the target computer system having an operating system shell or boot diskette*," as claimed (emphasis added). Cheng does not teach or suggest what is claimed, nor does nor Cheng in combination with the other cited references.

REQUESTED ACTION

Applicant requests that the amendments submitted herein at least be submitted in order to provide more sufficient antecedent basis for the term "post-load" in claims 8 and 15. Entry of this amendment is called for at least because this matter was previously overlooked both by Applicant and Examiner. By entering this amendment now, even if the rejection based on prior art is maintained, this will avoid the likely possibility that this matter would otherwise present an issue upon review in connection with an appeal. That is, in the context of an appeal review, if this matter were unresolved it would likely lead to needless reopening of prosecution. (Note that claim 1 did correctly provide antecedent basis for the term "post-load." However, claim 1 was previously canceled.)

Applicant submits that the invention as claimed in accordance with amendments submitted herein is patentably distinct, and also hereby requests that Examiner reconsider the previous, prior art-based rejection to grant allowance and prompt passage of the application to issuance.

Respectfully submitted,



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